

Computer Protection

The market is the toughest regulator of all.

By Nick Gillespie

You can almost forgive good-government types for wanting to take credit for the recent settlement offered by America Online to its customers. In the wake of highly publicized problems after switching to a flat-rate, unlimited-access plan—including a lawsuit filed in California by five disgruntled users and the threat of lawsuits from about three dozen state attorneys general—AOL has offered the following terms to its roughly 8 million subscribers: refunds or free time to make up for an ongoing (though improving) dial-up dilemma, a \$350 million upgrade of system capacity, a temporary curb on advertising for new customers, and clear wording in promotional materials explaining that customers may encounter delays when going online. Such a settlement seems to vindicate both the need for and efficacy of government oversight of consumer issues.

Illinois Attorney General Jim Ryan summed things up this way: "Cyberspace is a new and exciting place to acquire information. But we must remain vigilant to make sure that consumers have the same protections there as they do in more traditional venues."

Ryan is right that consumers need protection. But he is wrong to assume that such protection comes in any significant way from the government. In fact, the market is a far more efficient—and far less forgiving—regulator than state consumer protection agencies. Because of cut-throat competition with big on-line providers such as CompuServe, Microsoft Network, and AT&T WorldNet—and the literally thousands of other Internet service providers—AOL already had most of the terms of the settlement in the works when the first reports of access problems surfaced in December.

Here are just a few of the ways in which that headless, heartless enforcer, the market,

was spanking AOL sore without any help from attorneys general:

- CompuServe, AOL's largest competitor with about 2 million subscribers, ran an ad during the Super Bowl that featured a telephone busy signal and offered a toll-free number sardonically scripted as 1-888-NOT-BUSY. New print ads for the service read: "Busy People Can't Afford Busy Signals," and "Get On With It." AT&T WorldNet—which had its own highly publicized access problems last year—has opened up phone lines specifically for dissatisfied AOL users.

- Headlines such as "AOL's Growing Pains: How Its High-Tech Success Story Became a High-Profile Red Flag," "New Unlimited Access Plan Leaves Customers in AOL Hell," and "For \$19.95 a Month, Unlimited Headaches for AOL" ran in newspapers across the country.

- Abusive commentaries flowed freely on Usenet discussion groups alt.america.online and alt.aolsucks.

- On the *Tonight Show*, Jay Leno joked that AOL subscribers used to cybersex will have to go back to lower-tech phone sex.

- *Wall Street Journal* columnists Thomas Petzinger Jr. and Walter Mossberg both decried AOL ("the service is now broken," wrote Mossberg) and endorsed the fast-growing Microsoft Network.

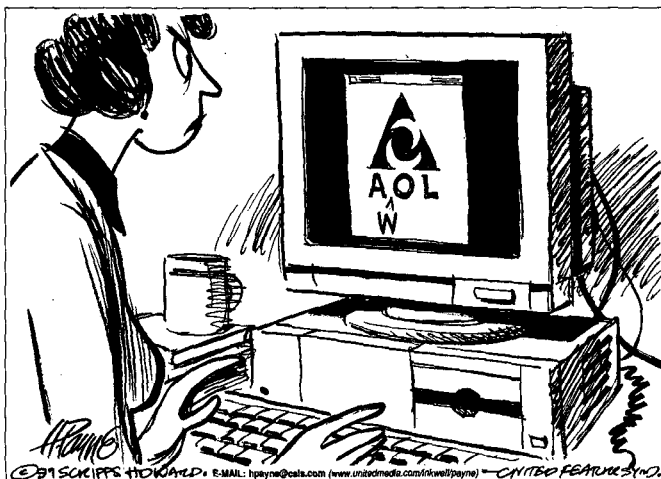
AOL's problems are the sort of negative publicity no competitor could orches-

trate—and no company can ignore without going bankrupt. And AOL has in fact traditionally been very responsive to market forces. Started in 1985, it grew into a household name (and now pariah) by offering relatively cheap, easy, and dependable access to e-mail, chat groups, proprietary material, and, more recently, the Internet and World Wide Web. Indeed, hardcore Net freaks have always sniffed at AOL because of its user-friendliness and mass appeal.

The climb to the top of the heap has hardly been easy: AOL's cost for acquiring new subscribers is at least \$45 per account and at times as much as \$270 per account. Keeping those new people is no easy trick, either. Most industry analysts peg AOL's "churn rate"—the pace at which customers join briefly and quit—at somewhere between 25 percent and 40 percent. Because AOL generates over 90 percent of its cash flow from user fees, it must attract and hold more and more customers if it wants to make more money. To accomplish that, it must offer customers good terms and good service. But the flat-rate plan—a response to competition that helped tumble the value of AOL's stock by 60 percent between May and June of last year—is a double-edged sword under the best of circumstances: Even as flat-rate pricing wooes new and placates current subscribers, it limits the amount of money AOL can get from any one account.

The same sort of pressures that spur market efficiencies ultimately drive consumer satisfaction and protection. Businesses, perhaps especially in the service sector, do not succeed by ignoring customers' desires and complaints.

Clearly, not everyone understands the process: In an odd and largely unreported moment from last year's Democratic National Convention, both Vice President Al Gore and Hillary Clinton cited government inspectors as the main reason why we have a safe food supply—as if grocers or restaurateurs could somehow profit from poisoning their customers. Luckily, most businesses have a far keener sense of what it takes to both gain and keep a customer.



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HENRY PAYNE



Pain Reactions

Reading Jacob Sullum's "No Relief in Sight" (January) brought back some literally painful memories for me. In 1992, following minor surgery, I was given a prescription for codeine. Since the pain proved much less severe than my surgeon predicted, I used only one of the 30-pill supply. A year later, however, I became truly incapacitated with a lower-back pain: unable to walk, sit, sleep, or do anything but pound the pillow and cry. Assuming it was just a back injury, I began taking the codeine at night to get some sleep. It worked like magic.

A month later, when I ran out, I tried using over-the-counter analgesics, with no success. Eventually, I went to a doctor, begging for some relief. When I mentioned codeine, his face froze. I could see his thought process: He uses codeine, therefore he is an addict, therefore he is malingering. He prescribed, instead, some other painkiller that did virtually nothing to ease the pain.

Over the next two months, I saw two other doctors; both had the same reaction, and both prescribed ineffective medications. It was not until September—four months after the pain began that I was finally diagnosed with lymphoma, which responded admirably to treatment.

The result of these doctors' paranoia about opiates? Three months of unnecessary agony for me, and permanent nerve

damage from the undiagnosed tumor. If they had not been so certain that I was only faking the pain to get recreational drugs, all this could have been avoided. Many times I thought about suicide; each time I told myself, "Just one more day." If I had known at first how long it would last, I doubt that I could have survived.

By the way: I obtained (illegally!) a small supply of codeine a year ago, which I am keeping in reserve. Relapses are all too common in lymphoma, and I do not want to endure that torture again. In the past year, I have felt no temptation to take even one of these pills. So much for theories of addiction.

Like many of your articles about government power grabbing, this one made me weep tears of frustration. I only wish that the bureaucrats at the FDA, DEA, and elsewhere were capable of seeing human suffering. In fact, I'd like to see them experience some of it.

Scott O'Hara
San Francisco, CA

I wanted to comment on Jacob Sullum's wonderful article, "No Relief in Sight." Chronic pain is an epidemic in the United States. It is often misunderstood and frequently mistreated. While opioid treatment remains controversial, it is clear that governmental regulations often create a chilling effect and a true barrier for patients and clinicians to work together. Articles like yours make a difference by making the public aware of this problem.

The American Academy of Pain Management credentials multidisciplinary pain management clinicians through board certification and program accreditation. In addition, we publish a directory of board-certified pain management clinicians, accredited programs, and a directory of pain clinics. This information is free on the Internet or may be obtained through a mailed directory. Our e-mail address is aapm@aapainmanage.org, and our Web address is <http://www.aapainmanage.org>.

Richard S. Weiner, Ph.D.
Executive Director
American Academy of
Pain Management
Sonora, CA

"No Relief in Sight" deals with a topic of general interest, as indicated by a recent *60 Minutes* report on the same subject. Unfortunately, not only was the topic similar but the author also used many of the intellectually bankrupt methods typically employed by that TV program.

Before I begin a critique, it is appropriate that I indicate my qualifications. I have M.D. and Ph.D. degrees from Washington University Medical School in St. Louis and was a faculty member at Yale University, the University of Minnesota, and the University of Cincinnati. Toxicology and therapeutic drug monitoring was an area of clinical practice when I was a member of the department of laboratory medicine at these various institutions. Currently, I do research at a biotech company.

The premise of the article—that physicians underutilize narcotic analgesics—has a component of truth which I shall endeavor to place in perspective. However, most good lies also have a component of truth which significantly contributes to their credibility. Perspective is important here, for all drugs have benefit and toxicity, and the former must be judged against the latter. A fatal fault in this article is the failure to provide the reader with the information and perspective necessary to make a rational judgment. Facts are omitted or slanted, anecdotes are told to create empathy for the author's thesis, and "expert" comments are applied out of context or are not representative of the field.

If I were to write an article of the opposite bias, I might begin with a mirror-image anecdote to gain sympathy. Recently, Larry King interviewed Johnny Cash, who had a series of operations to correct a jaw injury. This famous singer could barely talk, let alone sing, without medication of the type described by the

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author. However, unlike any of the characters in the author's article, Mr. Cash became addicted to these drugs. He has been in and out of treatment for this addiction ever since. Mr. Cash is only one of many celebrities who have required treatment for addiction to painkillers, yet none of them appeared in the article.

The article fails to accurately describe the toxicity of narcotics. The author states that "compared to other pharmaceuticals, opioids are remarkably safe: The most serious side effect of long-term use is usually constipation, whereas over-the-counter analgesics can cause stomach, kidney, and liver damage." In fact, opioids are lethal. As the book *The Pharmacological Basis of Therapeutics* says: "By the time he is seen by the physician, the patient who has taken an overdose of an opioid is usually asleep or stuporous. If a large overdose is taken, he cannot be aroused and may be in a profound coma. The respiratory rate is quite low (sometimes only 2 to 4 per minute), and cyanosis may be present. As the respiratory exchange becomes poorer, blood pressure ... falls progressively.... If hypoxia persists untreated, however, there may be capillary damage, and measures to combat shock may then be required.... Urine formation is depressed. Body temperature falls, and the skin becomes cold and clammy. The skeletal muscles are flaccid, the jaw relaxed, and the tongue may fall back and block the airway. Frank convulsions may occasionally be noted.... When death occurs, it is nearly always due to respiratory failure... or as a result of complications such as pneumonia or shock that develop during the period of coma."

As a wide variety of drugs are classified as opioids, crucial reactions may vary over the class. Nonetheless, the toxicities of the commonly used drugs such as morphine, meperidine, and codeine include respiratory depression, nausea, vomiting, dizziness, mental clouding, dysphoria, urinary retention, and hypotension. Frequently prescribed opioids like propoxyphene (used in Darvon) can have additional effects such as convulsions and toxic psychosis.

Finally, there is the addictive potential of these drugs. The consensus is that with proper use, rates are not high but they are significant. Unfortunately, adequate

studies are hard to find. However, the rates are sufficiently high that a significant number of patients will experience addiction. Thus, the drugs need to be used with strict supervision in the appropriate setting to minimize addiction with its debilitating consequences.

The author fails to understand how the conditions of use can affect the addictive potential of the drug. His initial anecdotes concern treatment of chronic pain in outpatients. He also reflects on the use of these drugs by patients with terminal cancer and quotes health care professional in regard to these patients without drawing a clear distinction. He further muddies the waters by mixing the acute treatment of pain in the hospital with that of chronic pain patients. As an example, he cites 11,882 hospitalized patients treated, with only 0.034 percent becoming addicted. Later in that paragraph he cites 38 chronic pain patients of which two became addicted. The difference between the two groups is compelling: The hospitalized patients had an addiction rate of 0.034 percent, whereas the chronic pain patients had a rate of 6 percent. Thus, the two groups differ almost 200-fold in potential for addiction. The ramifications of an addictive rate of 6 percent are catastrophic and unacceptable. (To some extent I am playing the author's game here by over-interpreting data on a population that is too small for statistical significance and is poorly characterized clinically and demographically.)

A rational reader without prior medical training could easily draw unreasonable conclusions from this article. The information in it can lead the untrained reader to conclude that narcotic analgesics are safe—even safer than aspirin or acetaminophen (Tylenol), the "over-the-counter analgesics [which] can cause stomach, kidney, and liver damage." The reader might reasonably act on this information and substitute these "safe" (opioid) medications for aspirin or acetaminophen for headache relief. The consequence to the unsuspecting reader could easily be addiction, if not the acute toxicities noted above. I can only hope that one of your readers does not take the medical information in your article seriously and suffer consequences because of it. If nothing else this untoward potential should

alert you to the care necessary when you indulge in writing medical articles. That care was not taken in this case. Thus, the article does a disservice to its readers because of an unintended but potentially lethal medical consequence.

The regulations and intimidation cited in the article are a good example of what happens when medical decisions are left to those not trained in medicine. Let us not conclude that the consequences of these regulations and our abhorrence of them indicate that the drugs they regulate are benign. The regulations are not benign and neither are the drugs. The author should have stuck to the issue of regulatory intimidation and not strayed into interpretation of medical data.

William Vine, M.D., Ph.D.
San Diego, CA

Jacob Sullum replies: I thank Mr. O'Hara and Mr. Weiner for their letters. The responses to my article, including several private communications from physicians, have been uniformly positive, with the exception of Dr. Vine's lengthy complaint. I am a bit puzzled by his condescending attitude, especially since he seems to agree with my thesis. I plead guilty to the crime of using anecdotes "to create empathy"; lock me up, along with every other journalist. As for the rest of the charges...

Dr. Vine accuses me of using "intellectually bankrupt methods," yet he fails to cite a single inaccuracy, logical fallacy, or piece of countervailing research. By using scare quotes, he insinuates that my sources are not *really* experts, but he does not explain the basis for that judgment. He says I used their comments "out of context," but he does not offer any examples.

When he gets down to specifics, Dr. Vine objects to my statement that, "compared to other pharmaceuticals, opioids are remarkably safe: The most serious side effect of long-term use is usually constipation, whereas over-the-counter analgesics can cause stomach, kidney, and liver damage." I was referring to long-term use of high doses for the treatment of chronic pain. In this context, opioids generally *are* preferable to aspirin, acetaminophen, and ibuprofen. Some patients

treated with narcotics experience side effects other than constipation, including those cited by Dr. Vine, but these are either unusual or less serious. More important, opioids do not cause organ damage, even in people who take large doses every day for years.

Dr. Vine notes that "opioids are lethal," but so is any drug (including aspirin) in a large enough dose. In discussing the long-term safety of narcotics for the treatment of chronic pain, I assumed, not unreasonably, that doctors would not prescribe lethal doses and that patients would follow their instructions. Since I described the case of a patient who failed to do so and died as a result (and also referred to "doses of narcotics that would kill the average person"), the risk of overdose should have been plain even to readers who had never heard that opioids can be fatal.

My article was about the impact of drug policy on pain treatment; it was not intended as a guide to the advantages and drawbacks of narcotics. The notion that my passing comment about long-term toxicity might lead someone to take (illicit?) opioids instead of Tylenol the next time he gets a headache is a bit of a stretch, I think. And for the reasons outlined below, it is misleading to say that the result of such a decision "could easily be addiction." Even so, Dr. Vine's concern that I did not pay enough attention to the hazards of narcotics is reasonable. In an earlier draft of the article, I noted that some patients, including David Covillion, experience severe (though not life-threatening) side effects from opioids. That passage was eliminated during the editing process. Had space allowed, I would also have discussed the risk of respiratory depression, which can complicate the treatment of patients who are near death (though it is not an issue for chronic pain patients like Covillion).

Dr. Vine claims that I do not describe a single painkiller addict. I take it he does not count my references to addiction among Civil War veterans and patent medicine consumers, or my discussion of Mary Tyrone in *A Long Day's Journey into Night* (a character modeled after Eugene O'Neill's mother). Nor did he notice my description of drug abuse by one of William Hurwitz's patients. I suppose I could

have thrown in Johnny Cash, and maybe Michael Jackson too, but somehow I doubt that would have satisfied Dr. Vine.

I never denied that some patients treated with narcotics continue taking them for non-medical reasons. I simply reiterated what appears to be the consensus among pain experts (in my reading and interviews, I did not come across any who disagreed): that such outcomes are rare. This conclusion, which Dr. Vine seems to concede, is supported by substantial research during the past few decades, including, but not limited to, the reports I cited.

Dr. Vine is correct that different studies in different contexts have found different rates of "addiction" or "drug abuse" that could be traced to pain treatment. It stands to reason that a patient who takes a narcotic for many years is more likely to get psychologically hooked on it than someone who gets a dose or two after surgery. But even in the study of chronic pain patients to which he refers, both individuals who developed problems had histories of drug abuse (as did Johnny Cash). This is an important fact, because it illustrates that addiction is not simply a drug effect; circumstances and personality play crucial roles in determining an individual's relationship with a given substance. That's why talking about a drug's "addictiveness" can be misleading. As former National Institute on Drug Abuse Director Charles Schuster, no wild-eyed drug legalizer, put it, "We have endowed these drugs with a mysterious power to enslave that is overrated."

Dr. Vine asserts that the "ramifications of an addictive rate of 6 percent" would be "catastrophic and unacceptable." Does he mean that, if this rate applied to chronic pain patients, they should not receive narcotics? Depending on who's counting, 5 percent to 10 percent of drinkers are alcoholics, yet we do not therefore conclude that no one should have access to alcohol, even though heavy drinking is far more debilitating than daily opioid use (assuming a reliable supply, no drug mixing, and sanitary injection practices). Surely the reason someone in pain wants opioids is at least as compelling as the reason someone unwinding after a hard day at work wants a beer or a cocktail.

Ba-a-a-d Example

I am writing in regards to "Eternal Life," an article by Jonathan Rauch which ran in REASON back in the August/September 1996 issue. Rauch's comments about the National Sheep Industry Improvement Center were incorrect and are continuing to result in inflammatory misinformation about the U.S. sheep industry as other publications—most recently the January 1997 issue of *Reader's Digest*—print excerpts from this one-sided, erroneous article.

Rauch started his article by writing about the wool subsidy established in 1954. That program was called the National Wool Act. It was enacted solely to level the financial playing field between U.S. sheep producers and their Australian and New Zealand counterparts, who were flooding the U.S. market with their products. What Rauch didn't include in his article is the fact that the Wool Act was phased out in 1993 under the guise of budget cuts. More important, he chose to omit the fact that the Wool Act was paid for by tariffs at no cost to taxpayers.

Since the Wool Act's three-year phase-out—which was completed last year—an estimated 25 percent of U.S. sheep producers have gone out of business. Their sudden withdrawal from the industry has resulted in crumbling infrastructure and economic losses, especially in rural communities where individuals derive a significant portion of their income from the U.S. sheep industry.

The National Sheep Industry Improvement Center addresses the U.S. sheep industry and rural economic development. It is not a continuation of the Wool Act, which provided payments directly to sheep producers, as Rauch said. It is a rural economic development program that will help rebuild the U.S. sheep industry's crumbling infrastructure.

It is only one of many programs designed to support America's working families who raise food and fiber, pay taxes, and support their communities. It is the industry's best hope for keeping alive an industry which economists estimate contributes \$6.7 billion annually to the national economy. It is a \$20 million one-time appropriation with a total of \$50 million allowed over 10 years—a

fraction of what's being collected through wool tariffs. It is an investment in American business and industry.

This working program for working families ought to be supported. Unfortunately, when irresponsible journalists like Jonathan Rauch start spreading misinformation and innuendos, the challenge for the U.S. sheep industry to persevere becomes unnecessarily more burdensome.

Steve Raftopoulos
President

American Sheep Industry Association
Englewood, CO

Jonathan Rauch replies: REASON readers can judge for themselves the importance of the National Sheep Industry Improvement Center. They can also weigh the rather bold argument that, because American consumers subsidize wool producers by paying tariffs, American taxpayers should also subsidize wool producers by financing a sheep industry center. But Steve Raftopoulos's sloppy letter does make me wonder whose article, if any, he actually read. He says, "What Rauch didn't include in his article is the fact that the Wool Act was phased out in 1993." I wrote: "Finally, in 1993, a Democratic Congress...killed the whole thing." He says that the sheep center "is not a continuation of the Wool Act,... as Rauch said." I wrote that the center is a new program enacted in 1996, empowered to "enhance production and marketing of sheep or goat products in the United States"—a direct quotation from the law.

To call any journalist an "irresponsible" spreader of "misinformation and innuendos" requires, it seems to me, the citation of at least one contrary fact. Otherwise, to whom does the charge stick?

Gay Rites

Nick Gillespie defends homosexual marriage on the basis of "free choice" and of the inevitability that our "evolutionary" society will ratify it in his editorial "Wedding Bell News" (December). Yet he fails to recognize that one person's choice in our complex society can never occur in a social vacuum where other citizens' equal right to choice is not infringed upon, or

denied outright. Homosexuals may be free to choose their lifestyle, but government is not free to coerce other Americans into legitimizing such behavior.

When government, in the name of a city council, a governor, a legislature, or the U.S. Supreme Court, attempts to coerce citizens into legitimizing, crediting, affirming, and paying for homosexual behavior, whether dressed up in wedding gowns or any other garb, it is a violation of the American citizen's fundamental right to conscience, privacy, association, and, yes, our fundamental right to discriminate among personal behavior patterns, no matter whose. It is by precisely such coercion, as manifested by the Supreme Court when it provided near-protected class status in response to Colorado's Amendment 2, that government loses its legitimacy.

Gillespie is correct when he tells us that a private employer has the right to offer employee benefits to anyone it chooses to, including homosexual partners. Consumers have an equal right to take such corporate policy into account in the marketplace.

By ratifying homosexual choice as part of society's evolution, Gillespie seems prepared to deny the rest of society their equal right to affect that evolution as they see fit. If Gillespie's comments represent contemporary libertarianism, it is not difficult to see why libertarians have such a difficult time in the political marketplace.

Whitney H. Galbraith
Editor

Rights In America
Colorado Springs, CO

The first two issues of REASON to show up in my mailbox left me feeling vaguely uneasy. I now understand why: There is no reason behind REASON. With no appeal to natural law, you have lost all force of moral persuasion. Nothing is left but personal preference. If my preference is otherwise, you can only whine in the wind or else bring down on me the compelling force of the state, which appears to be against your preference (today).

Personal preference, even though espoused by the majority, is a rotten basis for public policy. Personal choices usually have consequences that impact other

people, and conversely, public policy guides personal choices. When marriage is nothing more than an adult consensual relationship, nobody has the motivation to work through the difficulties necessary to make it work in tough times as well as good, and if we cannot keep our commitments to family, what motive is there to do so for work or the neighborhood or the country? Children who have not yet developed moral habits understand this far better than adults. That is why the only reliable predictor for crime in the streets in the United States today is the lack of fathers in the home. We need one man and one woman, married and committed to each other. No civilization in recorded history has survived the breakdown of traditional marriage. We will not be the first.

The whole purpose for marriage benefits in the workplace and from government is to encourage that social good, and (by implication) to deprecate the alternatives. IBM lamentably has joined Disney and AT&T in being part of the problem; Congress, for a change in this one case, is becoming part of the solution.

Tom Pittman
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"Wedding Bell News" misses the point, which is that the government has no business trying to shape social policy through tax policy in the first place. The benefits accruing to heterosexual marriage through the asinine, though admittedly warm and fuzzy, actions of our government were an attempt to provide for the well-being of the family, consisting, it was thought, of a man and a woman and their offspring. If the government had been willing to allow employers to pay employees whatever they were worth, in cash, and employees to know that they were going to have to take care of themselves, this whole question of homosexual marriage would be moot, since there would be no cash value to the institution.

Heterosexuals, homosexuals, molesters of beasts of the field, onanists, and those who have found other alternatives, all have exactly the same rights, and they are listed in the Constitution and the Bill of Rights. All else is tinkering. What is needed is not globules of gushing goo

about how they should have just as many rights and privileges as them, poured forth in order that we may stand back and exclaim "what a good boy am I!," but a determined effort to drive government out of the business of running our lives. That accomplished, those people who stole the word *gay* and made it into something dirty won't have to whine and whimper; there will be no profit in it.

R. L. Fenerty
Turbotville, PA

Nick Gillespie replies: Why is it that few topics arouse more ire than those relating to homosexuality or, more precisely, public policy as it relates to gays and lesbians? My editorial did not examine whether the various government subsidies to heterosexual marriage, such as tax breaks, were a good thing. *Asinine* wouldn't be my first choice as an adjective, but I essentially agree with R. L. Fenerty that such policies are misguided.

However, I believe Fenerty misses one of the major functions of matrimony by assuming that gays merely want to realize the "cash value to the institution." Apart from potential tax savings (or penalties, depending on the relative earnings of the people involved), marriage also serves as a public declaration of feelings—and an acceptance of the various rights and responsibilities explicitly and implicitly spelled out in the marriage contract. If the federal government wishes to promote "responsible" behavior (as it always claims to), the Defense of Marriage Act strikes me as an odd bit of legislation.

In general, I also agree with Whitney H. Galbraith that the government should not be "free to coerce...Americans into legitimizing" behavior which they find immoral and distasteful, and that citizens have "fundamental rights to conscience, privacy, association and...discrimina[tion]." Those are reasons for advocating a minimal state—no one should be forced into supporting something they decry (including, perhaps, heterosexual marriage). Better we have a neutral referee that allows individuals and voluntary associations the greatest latitude possible in living their lives (the limit being, of course, infringement on others' equal rights). Galbraith, however, mistakenly

draws an equivalence between a private employer and the state. IBM can only set policy for its employees and perhaps its customers, both of whom can leave whenever they want. While private employers should have a much freer hand in setting policy, the government, precisely because it has a monopoly on force, must be held to a different standard—one that rejects simple majoritarianism as a means of setting policy.

Tom Pittman accuses REASON of having "lost all force of moral persuasion" by espousing naught "but personal preference." What can I say? Perhaps the moral argument that individuals are ends in themselves doesn't move Mr. Pittman, whose recourse to "natural law" is opaque at best. His invocation of the "traditional marriage" certainly doesn't move me. Traditional in what sense and for what period? The institution of marriage continues to evolve over time; as Ludwig von Mises has pointed out, for instance, the idea of a marriage contract that treats men and women as equals is a relatively recent development and "a branch of the great liberal movement." Mr. Pittman's conflation of marriage with child rearing ignores the fact that many heterosexual couples cannot or choose not to have children. Apparently, his "natural law" would dissolve such "unnatural" arrangements. Finally, although tax laws make non-wage benefits relatively cheaper for employers and employee alike, businesses do not offer compensation of any kind primarily for a "social good." They do so to hold on to productive workers in a competitive marketplace.

Trade Disputes

In his review of my book *Opening America's Market: U.S. Foreign Trade Policy Since 1776* ("Trade Happens," January), Ramesh Ponnuru misrepresents my views. He asserts that "Eckes attributes the election of the Republican Congress in 1994 to public anger over the North American Free Trade Agreement," and then attempts to ridicule that interpretation. Unfortunately for Ponnuru, he attacks a straw argument. Nowhere in the book do I make that simplistic claim. My interpretation is more complex: "Eco-

nomic insecurity, including anxiety over globalization, job losses, and declining living standards, contributed importantly to this outcome."

This slipshod example typifies Ponnuru's superficial review. He faults the book for not giving enough attention to persons (like Albert Gallatin and Thomas Jefferson) and topics (the tariff during the Civil War, the arguments of early American free traders) that he deems important. This is arrogance at its worst. A reviewer can always slam an author for not writing the reviewer's ideal book.

Finally, Ponnuru seems to think that my facts do not square with his theories. This is the criticism historians frequently hear from amateurs and polemicists ignorant of the documentary record. Ponnuru needs to visit the National Archives and gather some dust under his fingernails reading primary sources. Familiarity with the documents might jar his sophomore illusions about protectionism and Smoot-Hawley.

Alfred Eckes
Ohio University
Athens, OH

Ramesh Ponnuru replies: Despite Prof. Eckes's scholarly letter, I still don't quite understand why voters worried about "globalization" would have elected Republican congressmen, who tended to support NAFTA. But I'll confess to slightly oversimplifying Eckes's claim if he owns up to the statistical chicanery and slippery arguments which I exposed and which he now passes over in understandable silence. If he rereads my review, Eckes will see that I didn't fault him simply because he paid insufficient attention to figures like Jefferson and Gallatin, but because his attention was so selective and tendentious as to misrepresent their views. Prof. Eckes evidently believes that his archival work, impressive in some respects, entitles him to use such tactics and even to dispense with logic. I suspect I will not be able to argue him out of that position.

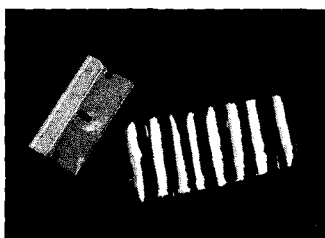
CORRECTION

In the February issue, the e-mail address for James D. Wright on page 64 was incorrect. The correct e-mail address is ssr@mailhost.tcf.tulane.edu.

Unjust Weights

By Jacob Sullum

Take six grams of cocaine, add some water and baking soda, and pop it in the microwave. Now you have crack. What's the difference? Pharmacologically, none. Legally, at least four years. Federal law imposes a mandatory minimum sentence of five years (with no parole) for possession of five grams or more of crack by a first-time offender. To get the same penalty for cocaine powder, you'd need half a kilo.



This 100-to-1 disparity, which Congress created at the height of the crack panic in the 1980s, has often been criticized as unjust, especially since crack defendants are overwhelmingly black, while powder defendants are mostly white and Hispanic. In 1995 the U.S. Sentencing Commission recommended that the distinction be eliminated, a proposal that was rejected by Congress and the White House. Now two psychologists specializing in addiction, the University of Minnesota's Dorothy K. Hatsukami and Columbia University's Marian Fischman, have joined the critics with an article in the November 20 *Journal of the American Medical Association*.

After reviewing two decades of research comparing smoked and snorted cocaine,

Hatsukami and Fischman concluded that the evidence does not justify the notion that crack is 100 times worse than cocaine powder. Nevertheless, they found that crack is more addictive, since smoking cocaine (like injecting it) produces a faster, more intense, and shorter high than snorting it. That, they say, justifies somewhat harsher penalties. "We do not want to see an end to the differential," Hatsukami told UPI, "but we think that it should be 2 or 3 to 1, not 100 to 1."

Death and Taxes

By Brian Doherty

Los Angeles is reeling as its beloved Dodgers—the last family-owned team in the big leagues—are put up for sale. Patriarch Peter O'Malley blames estate taxes, which would hit a Dodger-sized estate at 55 percent, meaning the family would have to come up with cash worth 55 percent of the team's value to pony over to the IRS.

Even before this potential tragedy for L.A.—who knows if a new corporate owner will remain true to the city?—California Republican Rep. Christopher Cox was pushing legislation to repeal the estate tax, and he has 97 Republicans and even five Democrats as co-sponsors. Gutting the estate tax, political columnist David Schribman wrote in the November 11 issue of *Fortune*, could be "a surprisingly prominent element in...Republican legislative priorities" this year.

The tax might seem to pound only the plutocrats. It also might seem, because of the high rates, to be a big money maker for the feds. But the estate tax's effect is

Balance Sheet

By Rick Henderson

ASSETS



▲ Open Season. Sen. Spence Abraham (R-Mich.), new chairman of the immigration subcommittee, strikes back at restrictionist conservatives. At a Silicon Valley event, he assures backers of family- and business-based immigration that no major cutbacks will occur on his watch. And he calls for considering the separation of the Immigration and Naturalization Service into two agencies, one to process applications and another to enforce the law.

▲ Salary Cap. A late January "living wage" initiative that would have given Houston the highest minimum wage in the country goes down in flames. By a margin of 76 percent to 24 percent, voters in the nation's fourth largest city reject the proposed \$6.50 per hour mandate.

▲ Corporate Welfare Reform? House Budget Committee Chairman John Kasich (R-Ohio), backed by a left-right coalition including the Cato Institute, Americans for Tax Reform, Friends of the Earth, and various Naderite groups, targets \$3 billion in annual federal subsidies to businesses. The main opponents: groups like the Business Roundtable that enjoy the federal gravy train and the White House, which wants to limit tax breaks rather than handouts.

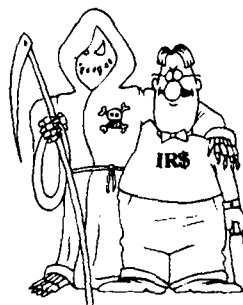
▲ Intellectual Freedom. Quotas lose their luster inside the ivory tower. A nationwide Roper poll of 800 faculty members commissioned by the National Association of Scholars discovers that nearly two in three oppose race and gender preferences. Sixty-four percent oppose preferential treatment in campus hiring and 61 percent oppose it in student admissions even though more than 70 percent say their universities use such discriminatory policies.

both bigger and smaller than you might think, according to a new paper from the Center for the Study of Taxation in Costa Mesa, California.

The tax hits mostly family-owned businesses, 87 percent of which don't survive to a third generation. (Nearly 90 percent of estate taxes are paid on estates worth less than \$2.5 million.) The Small Business Survival Committee estimates that 90 percent of family businesses that fail right after the founder dies do so because the business doesn't have enough liquid cash to pay the estate taxes. In a 1993 study, Richard Wagner, chairman of George

Mason University's economics department, estimated that estate taxes have cost 262,000 jobs since 1971.

Which means that even the feds aren't getting their money's worth from estate taxes—which amount to less than 1 percent of the budget, generally less than \$15 billion a year. With the income taxes lost due to stifled job creation



▼ **Web Stringers.** Tired of crawling across the World Wide Web? It's not all America Online's fault. An FCC regulation limits the amount of power modems use when they send data across a standard telephone line, making transmissions faster than 28.8 kbps dicey. FCC foot-dragging prevents US Robotics, Lucent Technologies, and Rockwell from developing dependable transmission standards for 56.6-kbps modems and their even swifter successors. As a result, few of the hot boxes currently advertised really run as fast as you'd think.

▼ **Child Abuse.** Despite labor union and Clintonista demands to extend Medicaid coverage to all children, the National Center for Policy Analysis discovers no crisis of uninsured kids. Using U.S. Census figures, the NCPA finds about 13 percent of native-born children lack medical insurance, a figure that's been steady for a decade. Around one-third of foreign-born children have no health insurance, but most of them would never qualify for Medicaid in the first place.

▼ **Safety Dance.** The estimated 1,700 lives "saved" by air-bag usage, reports *The Wall Street Journal*, is little better than a random guess by federal regulators. National Highway Traffic Safety Administration officials confess they don't track how many accident survivors in cars with air bags wore seat belts. Seat belt use, which now exceeds 70 percent, likely saves more lives than air bags ever could.

▼ **Wing Nuts.** Last year "family-friendly" conservatives savaged the flat tax for allegedly undervaluing "human capital." Now the Family Research Council's Gary Bauer attacks Social Security privatization. In a *New York Times* op-ed, Bauer praises the benefits Social Security lavishes on wives and widows who never take jobs outside the home. Privatization, he fears, will only encourage women to go to work.



LIABILITIES

concerned, the only thing to do with such hair was chemically straighten it.

Sylva opened up a small, somewhat clandestine shop devoted exclusively to braiding. It grew rapidly, developing a three-month waiting list. To expand, she hooked up with Rasheed and his wife. Their joint venture, the Braiderie, did not stay in the informal market, however. It operated openly, built up a 400-person client base in its first year, and soon added a second San Diego-area shop.

That's when state regulators came calling. They fined the Braiderie \$100 for "aiding and abetting" unlicensed braiding activity. Many of the shop's seven braiders learned their craft in Africa and have neither the 1,600 hours nor \$5,000 to \$7,000 it takes to get a California cosmetology license, which is irrelevant to their work anyway.

Now the Institute for Justice, a Washington, D.C.-based public interest law firm, is suing the state of California on behalf of hair braiders like Sylva. It argues that the state's cosmetology regulations have no relationship to the services performed by natural African hair stylists and therefore deprive them of their economic liberties under the California and U.S. Constitutions.

"What we seek is a rule of law that requires that when government regulates entry into a business or profession its regulations must be reasonably related to health and safety objectives," says IJ litigation director Clint Bolick. "This very common sense standard cannot possibly be met by the cosmetology regulatory regime."

"You go from a few thousand dollars to a business that is supporting seven or ►

BRICKBATS

◆ **Five-year-old Ryan Hudson** just knew that his parents had a little device that made cool noises. He didn't know that it was a beeper. And he didn't know that his Newport News, Virginia, school system has a policy that forbids students from bringing beepers to class. He does now. Ryan took the beeper when his parents weren't looking and brought it to kindergarten. A teacher found it, and Ryan was suspended from school.

◆ **Meanwhile, in the neighboring state of Maryland,** Baltimore school officials are tackling equally weighty matters. They've been looking into a certain Mr. Froggy and his courtin' style. Specifically, they put together a committee that recommended not allowing elementary school students access to a book that illustrates the song. Seems that some parents didn't remember the song very well. They read the book and were shocked to find that Froggy did more than just ride, uh hum, uh hum. He smoked, caroused, and carried concealed weapons. They decided that this wasn't the sort of message impressionable young children should hear.

◆ **No country has done more to eliminate trash than Germany.** That's why they are looking desperately for some. Reduction and recycling laws have cut waste dramatically, but that leaves government-built incinerators and landfills idle. To remedy this situation, Germany is importing trash. The city of Dusseldorf tried to order one firm to stop shipping waste to a Belgian cement factory, which paid for it, and send it to a local dis- ►

and money spent on estate planning, plus enforcement and compliance costs that can be higher than 50 cents on the dollar, even that small federal benefit might be an exaggeration.

Hair-Raising Laws

By Virginia I. Postrel

When Margurite Sylva came to America from Senegal in West Africa, she was looking for economic opportunity. But she also had a cultural mission. She wanted, says her business partner Ali Rasheed, "to teach African Americans the traditional braiding styles of

their ancestors, thousands of years old." To get the required license, she went to cosmetology school. There she learned state-mandated techniques based on flapper-era hairstyles and 1950s permanent waves and heard not a word about braids, cornrows, hairlocking, or any other styles designed for the natural textures of African hair. As far as the state was



IJ plaintiff JoAnne Cornwell

BRICKBATS

posal plant, which charges to take it. The factory got a temporary injunction, and the Belgians have petitioned the European Union to bar "garbage protectionism."

◆ Get ready for the latest toy sensations: Sara and her brother, Dara. Sara comes dressed in Islam's traditional floor-length gown, the chador. Dara is dressed like an Islamic cleric or mullah. They are Iran's attempts to fight off Western imperialism, specifically Barbie, which is quite a popular doll in that country. Said Sara and Dara's designer, Majid Ghaderi, "Barbie is an American woman who never wants to get pregnant and have babies. She never wants to look old, and this contradicts our culture."

◆ Malaysia has seen a troubling uptick in abandoned babies. But one local politician thinks he has the solution. Nik Aziz Nik Mat, chief minister of the state of Kelantan, has warned women not to wear "excessive lipstick." Says Nik Aziz of the abandoned babies, "I am sure 99 percent of the mothers involved wear cosmetics."

◆ In Venezuela, astrologer Jose Bernardo Gomez predicted that President Rafael Caldera will die this year. That doesn't seem like a terribly risky prediction, considering that Caldera is 80, and Gomez cautions that death is just "symbolic language that could be physical or something of another order." But it proved quite risky for the stargazer. He was detained and questioned for two days by the widely feared Department of In-

Chip Bok

IT'S MY SEAT...
ALL MINE



eight people, plus people in a foreign country who can't make a living. We think that's the American dream," says Rasheed. "And to be penalized for doing this by somebody who has no idea what you do, somebody who is really trying to protect their industry, we think is un-American."

Mixed Choice

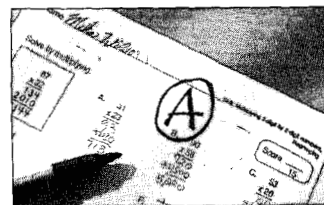
By Ed Carson

Another study evaluating Milwaukee's school choice program, which provides scholarships for approximately 1,300 low-income students to attend secular private schools, gives the program mixed grades. In the study, Cecilia Elena Rouse, assistant professor of economics and public policy at Princeton University, finds that the program has produced "quite large" improvements in students' math test scores. However, she finds no statistically significant improvement in reading scores.

Previously, a University of Wisconsin study had concluded that Milwaukee's pro-

gram had no effect on math or reading test scores. That finding was contradicted last summer by researchers from Harvard University and the University of Houston who found that the choice program had improved both math and reading test scores. (See "Choice Cuts," Dec.)

All three studies relied on the same data, so how did they come to different conclusions? The data are "messy," says Rouse. They cover only a small number of students over a brief period of time, and much of the information is missing. So seemingly trivial differences in interpretation and meth-



odology have a big impact on the final results.

One example: Researchers must infer students' grade levels from test scores. If a student misses a test one year, researchers must "impute" the student's grade

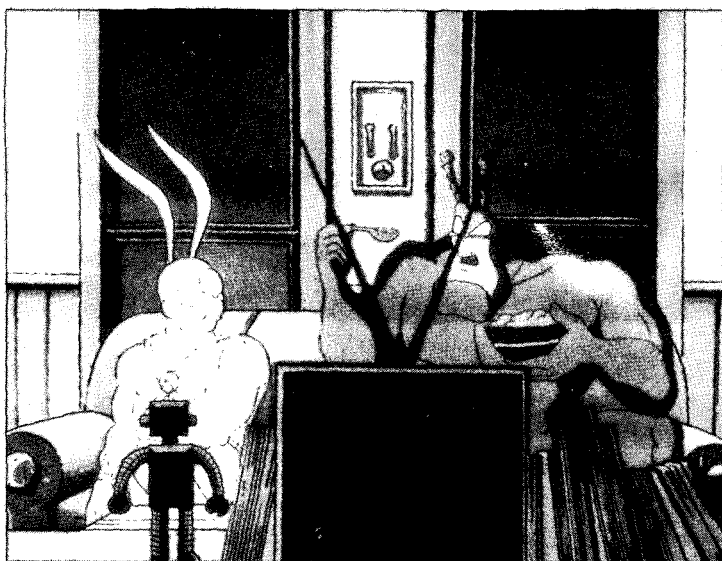
level by looking forward to future test scores, or back to previous tests. But the direction from which researchers impute can determine whether the findings show students improved by a statistically significant amount, or not at all.

Nevertheless, Rouse concludes that the program appears to be a qualified success: "I find that the Milwaukee Parental Choice Program and the participating private schools likely increased math scores by 1.5 to two percentage points a year.... When I total the math and reading scores, I estimate that private students gained approximately 1.3 percentage points a year."

Hillary and Ebonics

By Brian Doherty

Ebonics may have temporarily replaced the First Family as a topic for right-wing ire. Strangely, though, the two are linked; Ebonics is something else for which Hillary Clinton might be to blame. The idea that black English is its own language



projectors on "Dingo," referencing a Meryl Streep movie that exploited a lurid news story. *The Tick* quickly developed an adult following. So this season, an episode airs first on Saturday morning on Fox as a kids' show, then it does a semiotic quick-change and runs a week later on Comedy Central as self-referential satire. Elites bemoan niche programming; what we gain in entertainment, they say, we lose in common culture. *The Tick* addresses relative cultural experiences in ways they never dreamed of.

—Ed Carson

deserving special consideration dates back a while. It was during Hillary's late '70s tenure as chair of the Legal Services Corporation that an LSC grantee first tried to sue the federal government to define black English as a separate language—which would require the state to provide blacks with mandatory remedial language training.

COPS on Hiatus?

By Nick Gillespie

Remember the Clinton administration's promise to put 100,000 cops on the streets? For cities, it seemed like a dream come true: The Violent Crime Control and Law Enforcement Act of 1994 authorized \$9 billion to hire as many as 100,000 new police. Under a program called Community Oriented Policing Services, the federal government promised to pick up 75 percent of the cost of hiring new police officers for

three years; local governments only had to pony up the remaining 25 percent of salary and benefit outlays and agree to fund the cops for the full six years of the grant program. The deal was so good, in fact, that about 9,000 cities nationwide used COPS money to hire an extra 18,000 cops (itself a far cry from the magic number 100,000 banded about by program supporters).

The bill for the COPS program, however, is due, and cities are now scrambling to figure out how they will pay for their beefed-up police departments. Places such as San Diego—which gave back grants for 40 cops because city officials couldn't guarantee future cash to cover the new hires—are sitting pretty.



LIBRARY OF CONGRESS

More typical is St. Louis, which added 23 cops at a cost of about \$1.7 million a year. The city's options include raising taxes, cutting other police costs, and squeezing other parts of the city budget. "I truly don't believe that many cities, including us, thought about how we were ever going to be able to afford [the police officers] when the grants ran out," Sgt. Robert Heimberger, St. Louis's COPS coordinator, told *USA Today*.

Keeping Canada Culturally Pristine

By Michael W. Lynch

While Americans eagerly welcome the return of Darth Vader to their local theaters, our neighbors to the north risk arrest if they hook up to what Canada's culturecrats call the Death Stars: the satellites that deliver such digital satellite services as DirecTV and USSB.

Although it is legal to own

a satellite dish in Canada, it is illegal to subscribe to unlicensed American companies. Still, fed up with cable regulations that force them to purchase Canadian-produced channels in order to receive such American favorites as HBO, CNN, and BET, at least 200,000 Canadians have used American addresses to sign up for DSS providers. This has Canada's culturecrats steaming.

"Everyone involved—pirate, retailer and purchaser—could be charged with a criminal offense," Minister of Industry John Manley told *The Boston Globe*.

The assault on DSS is the latest reinforcement to the increasingly porous barricade the Canadian government has attempted to erect against American cultural exports, which include books, magazines, television, movies, and even country music.

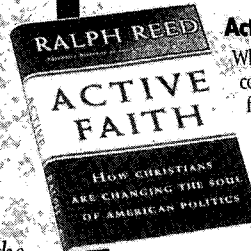
In 1994, a Canadian bureaucracy kicked the American-owned *Country Music* ▶

A COUNTRY IS ONLY AS SOLID AS THE FOUNDATION ON WHICH IT IS BUILT.

Almighty God; we make our earnest prayer that Thou wilt keep the United States in Thy holy protection; that Thou wilt incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government; and entertain a brotherly affection and love for one another and for their fellow citizens of the United States at large. And finally that Thou wilt most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility and pacific temper of mind which were the characteristics of the Divine author of our blessed religion, and without a humble imitation of whose example in these things we can never hope to be a happy nation. Grant our supplication, we beseech Thee, through Jesus Christ our Lord. Amen.

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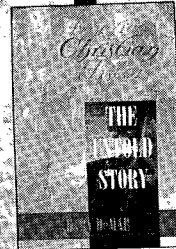
This 9-foot sculpture of George Washington at prayer is located on the grounds of Freedom's Foundation at Valley Forge.



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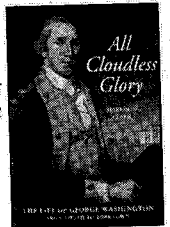
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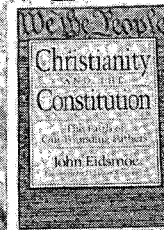
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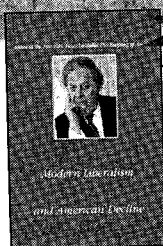
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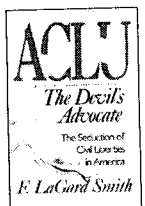


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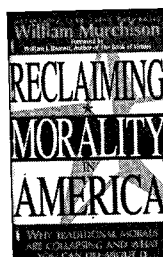
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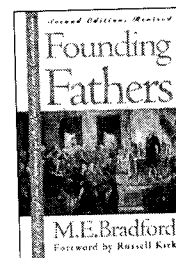
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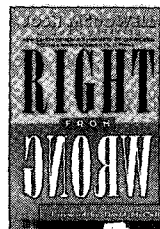


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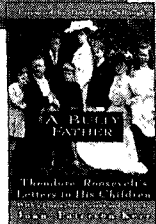
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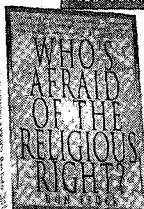
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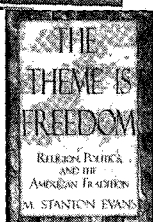
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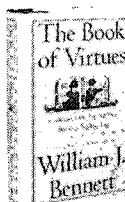
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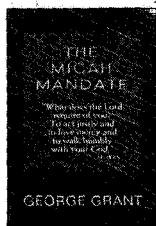
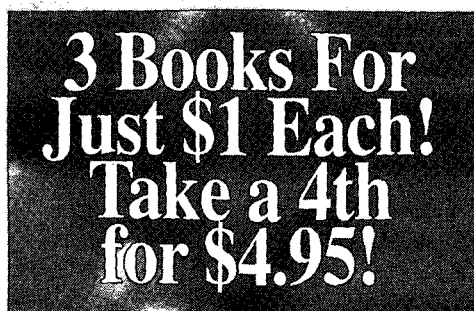
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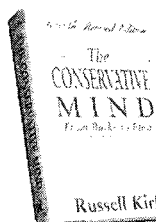
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telligence and Prevention. The intelligence officers wanted to know where Gomez got his information.

◆ In Capetown, South Africa, 1,500 people marched on parliament chanting, "We want justice. We want peace." They demanded that the police do something to stop the violence in the city's mixed-race townships. And they had good reason to complain. The marchers were thieves, murderers, and drug dealers, and they are alarmed by the growing, and often deadly, vigilante actions against them.

◆ What would you do if you were a suspected thief being chased by a police dog? One Miami man had an idea. Ricardo Culberson bit the dog on the neck. The dog is fine. The bite didn't even break the skin. But Culberson was pepper-sprayed, handcuffed, and taken to jail, where he faces charges of armed robbery, carjacking, and biting a police dog.

—Charles Oliver

SOURCE

The National Bureau of Economic Research, a private nonprofit research organization founded in 1920, has a new Web site (www.nber.org). It features abstracts of thousands of NBER working papers of economic research and over 3,500 time series of economic statistics on such matters as foreign trade, income and employment, interest rates, prices, transaction volumes, and leading indicators. The site features a convenient key-word search engine.

Scott Stantis



Channel (CMC) off Canadian cable systems, giving its spot to the newly created Canadian-owned New Country Network (NCN). It wasn't until a year and a half later, in September 1996, that the owners of CMC were allowed back into the Canadian market, by buying a 20 percent stake in NCN.

Other acts of cultural protectionism include prohibiting Borders Books from operating north of the American border and imposing an 80 percent tax on the advertising value of American magazines. Still, 70 percent of the magazines read and 93 percent of the movies watched by Canadians have American roots.

"There is a very strong dominance in the cultural industries of the Canadian marketplace by the United States," Canada's minister for international trade lamented



to *The New York Times*. "We come at this from the point of preserving culture and identity."

The Center Folds

By Rick Henderson

One hoary post-election tradition is the voter survey, and in November 1996 the centrist Democratic Leadership Council asked more than 150 questions of 1,200 registered voters nationwide. The results, packaged as *Rebuilding the Vital Center*, offer supporters of limited government some cheery news.

When asked what they thought the proper role of the federal government is, more than twice as many respondents stated it should not interfere with people's lives (30 percent) as said it should "solve problems and protect people from adversity" (13 percent). More people believed that the government should stay out of the economy (18 percent) than said the government "should

spend on social programs" (15 percent). Meanwhile, when asked to choose between "better" government and smaller government, only 28 percent said that the federal government should "deliver essential services at a reasonable cost." More than twice as many, 65 percent, said "the federal government has become too big and intrusive and needs to be cut back no matter what."

Many of the other questions presented typical partisan claptrap—asking self-described Clinton voters how important it was to them that he signed the Brady Bill, or "stepped up efforts to bar illegal immigration," or "helped to enhance peace efforts in Ireland, Bosnia, and the Middle East."

The way other questions were formulated, however, underscores the egotism that runs wild inside the Beltway. How important was it for a Clinton voter that the president "cleaned up toxic waste sites and increased safeguards for meat and poultry"? (Imagine Slick Willie in a

moon suit.) Or that he “helped move one million people from welfare to work”? (Wow. The Executive Branch must hire lots of folks.) Or that his “budget plan resulted in a 60% decrease in the deficit”? (As if the GOP Congress didn’t nudge him along.)

In the foreword, DLC President Al From says, “Clinton’s decisive victory offers a roadmap for Democrats to forge a new and lasting majority coalition in national politics.” Of course, he couldn’t get an old, temporary majority to vote for him in either presidential race.

Captain Weatherman

By Brian Doherty

You wouldn’t think the National Oceanic and Atmospheric Administration—responsible for such things as fisheries, charting the coast, and weather satellite data—would often need to call in the troops. But NOAA has its own commissioned corps with 332 uniformed officers paid full military compensation, including a full pension after 20 years of service, regardless of age.

This quasi-military system makes the NOAA corps cost



around \$661,000 a year more than it would if officers were paid as normal civilian employees. But that system might be on its way out. Downsizing in the Department of Commerce, responsible for the NOAA, has already eliminated more than 50 of these officers since

DATA Dishonor Roll

By Nick Gillespie

A recent report card on U.S. public schools issued by *Education Week* and the Pew Charitable Trusts displays the sorts of grades kids try to hide from parents. Overall, public schools earned a B for standards and assessments, a C for quality of teaching, and a C- for school “climate” (organization and operation). The report breaks down marks for resources (i.e., money, infrastructure, and equipment) into three subcategories: adequacy (C+), equity (B-), and allocation (C-).

The authors lament that little of the past 10 years’ increase in educational spending has found its way into the classrooms: “Most...increased funding has been spent on the approximately 12 percent of students in special education, on trying to keep up with enrollment growth, and on rising salaries for an aging teaching force.”

The table below shows two measures used to grade American schools: state-by-state results of the National Assessment of Educational Progress exams in 4th-grade reading proficiency and 8th-grade math proficiency. Numbers represent the percentage of students who score at the “proficient” level or above.

Percentage of Students Proficient or Above on Exams

State	4th grade reading	8th grade math	State	4th grade reading	8th grade math	State	4th grade reading	8th grade math
AL	23	10	LA	15	7	OH	n/a	18
AK	n/a	n/a	ME	41	26	OK	n/a	17
AZ	24	15	MD	26	20	OR	n/a	n/a
AR	24	10	MA	36	23	PA	30	22
CA	18	16	MI	n/a	19	RI	32	16
CO	28	22	MN	33	31	SC	20	15
CT	38	26	MS	18	6	SD	n/a	n/a
DE	23	15	MO	31	20	TN	27	12
FL	23	15	MT	35	n/a	TX	26	18
GA	26	13	NE	34	26	UT	30	22
HI	19	14	NV	n/a	n/a	VT	n/a	n/a
ID	n/a	22	NH	36	25	VA	26	19
IL	n/a	n/a	NJ	33	24	WA	27	n/a
IN	33	20	NM	21	11	WV	26	10
IA	35	31	NY	27	20	WI	35	27
KN	n/a	n/a	NC	30	12	WY	32	21
KY	26	14	ND	38	30	US	28	21

Source: *Education Week*

1994, and NOAA management is finally thinking about dumping its military corps altogether.

In World War II, NOAA’s ancestor agency, the Coast and Geodetic Survey, had most of its officers and ships transferred to the control of the armed services. Although this control ended with the war, and the Department of Defense says the corps doesn’t meet its criteria for military compensation, the NOAA officer corps has en-

joyed military-style compensation ever since.

Pot Pass

By Jacob Sullum

Although the initiatives in Arizona and California have attracted the most attention, many other states have recognized the medical use of marijuana to some extent.

In January, implementing a law passed by the state legislature in 1996, the Massa-

chusetts Department of Health announced that a state-appointed panel of three physicians would issue medical marijuana certificates to patients suffering from glaucoma, asthma, and the side effects of chemotherapy. A patient with a certificate would have a prima facie defense against marijuana possession charges. “We’re trying to get certificates into the hands of people who meet the medical criteria,” said Public Health ▶

QUOTES

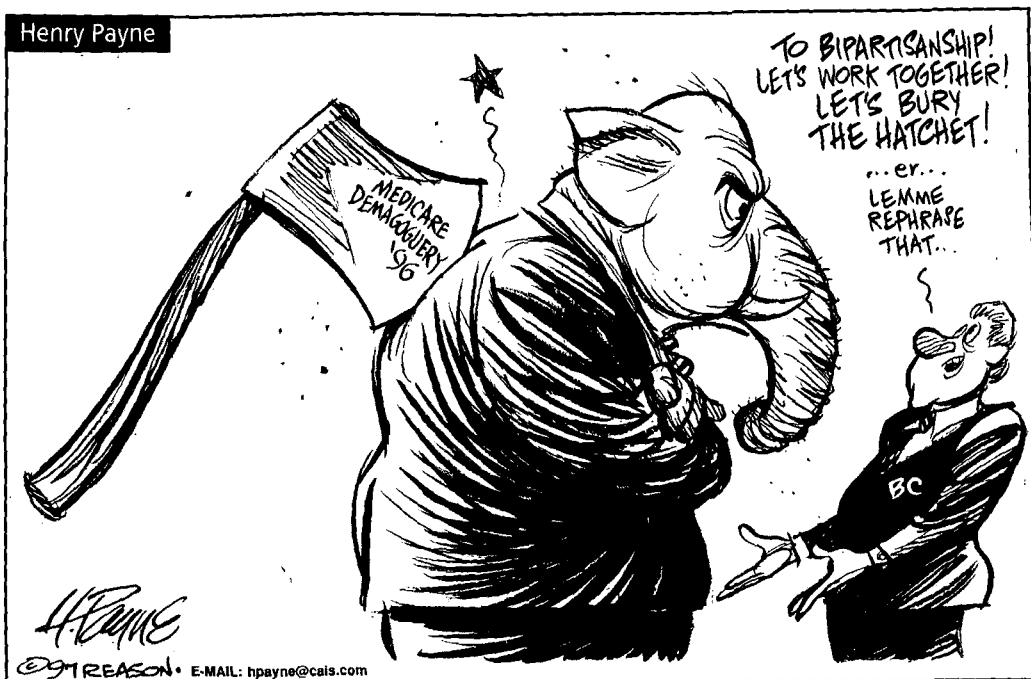
"Abuse of power isn't limited to the bad guys of other nations, either. It happens in our country if we're not vigilant. At Waco, was there really an urgency to get those people out of the compound at that particular time?...At Ruby Ridge, there was one guy in a cabin on top of the mountain. Was it necessary for federal agents to go up there, shoot a 14-year-old in the back and shoot a woman with a child in her arms? What kind of mentality does that? When will the agents of the FBI say, 'Wait a second! I don't want to shoot people—we can wait them out, because eventually they're going to go to the market?' Whether you agree with someone's philosophy or politics, they are still human beings and deserve to be treated as such."

—Clint Eastwood, in *Parade* magazine, January 12, 1997

"We want to make a very strong statement that it is worth it to this country to invest in these middle-class students. We believe it will help them reengage in civic life and make them believe that government does something for them too."

—Assistant Secretary of Education David Longanecker on February 5, defending the Clinton administration's proposal to provide massive new federal subsidies for middle-class college students

Henry Payne



Commissioner David Mulligan. "Who is going to prosecute someone who has a certificate saying they have a medical condition that requires [marijuana]?"

Ohio also approved a medical marijuana law last year, allowing people charged with possession or cultivation to argue in court that they were using the drug for therapeutic purposes, provided they have a doctor's written recommendation. The law, which does not prevent prosecution or guarantee acquittal, is essentially a statutory version of the common-law medical necessity defense, which patients arrested on marijuana charges have used successfully in Idaho, Florida, Washington, and the District of Columbia. Last fall Ohio Gov. George Voinovich and Attorney General Betty Montgomery said they did not realize the medical marijuana defense was part of a sentencing bill they had both supported, and Montgomery promised to seek its repeal this year.

Similarly, legislators in Virginia, awakened by the

publicity surrounding the Arizona and California initiatives, are trying to eliminate a 1979 law that allows doctors to prescribe marijuana or THC for cancer and glaucoma patients. According to a September 1996 report from the Marijuana Policy Project, Virginia was one of 23 states with current medical marijuana laws. Such laws had been repealed in seven states and had expired in four (including Arizona and California). Almost all of these statutes were passed in the late 1970s or early '80s, and either a legal source of marijuana was never available or the drug was provided as part of a research program that is now moribund.

Big Country?

By Ed Carson

Since the Industrial Revolution, people have been concentrating in urban areas. But that may be changing. From 1990 to 1995, population in rural U.S. counties increased by an estimated 5.1 percent, according to a new

study by demographers Kenneth Johnson of Loyola University and Calvin Beale of the U.S. Agriculture Department. During the entire 1980s, rural population grew by 1.3 million, but in the first half of this decade it jumped by 2.6 million. Metropolitan population rose faster, at 5.8 percent, due to immigration, higher birth rates, and lower death rates. But internal migration resulted in a net shift of 1.3 million people moving from urban to nonurban parts of the country.

Why this is happening now is unclear. But jobs are easier to come by outside the city. Unemployment in rural areas was atypically lower than urban unemployment during the economic slowdown of the early '90s. And technological changes are allowing more people to work at home and more businesses to move outside city centers.



LIBRARY OF CONGRESS

People don't appear to be moving to the true country, however. Nearly one-quarter of the nation's 2,304 rural counties, primarily those dependent on farming or mining, had declining populations. The bulk of "rural" population growth occurred in counties near metropolitan areas, beyond the established suburban sprawl, but which may be classified as metro in the near future.

Treaties or Equal Treatment?

By Michael W. Lynch

U.S. District Judge Thelton Henderson has been embroiled in controversy since he issued a preliminary injunction against the enforcement of the California Civil Rights Initiative (Prop. 209). At his confirma-

tion hearing, the Carter appointee had promised to recuse himself "for a reasonable time" from cases brought to his court by groups on whose boards he served. Those groups include the American Civil Liberties Union of Northern California, a group now challenging Prop. 209 in his court.

While the focus has been on Henderson's connections to the ACLU, individuals interested in the fine points of international law will want to note the arguments laid out in an amicus brief submitted by the Meiklejohn Civil Liberties Institute, another organization on whose board Henderson formerly served.

According to the Meiklejohn Institute, Prop. 209 is unconstitutional because it violates international law. The institute's legal argu-

ment, first developed in an op-ed by Neil A.F. Popovic, a lecturer at the U.C.-Berkeley law school, is that under the U.S. Constitution's Supremacy Clause, international treaties are the supreme law of the land and therefore trump state law. Popovic argues that the U.S.-ratified International Convention on Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights go beyond U.S. law, "defin[ing] racial discrimination to include discriminatory effects as well as discriminatory purposes." So America's various governments must make decisions based on race.

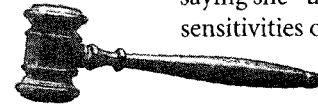
The Meiklejohn brief makes its case in part by cit-

ing such authorities as Prafullachandra Natwarial Bhagwati, a human rights expert from India, who once said, "Unequals have to be treated unequally in order to promote substantive equality." Elizabeth Evatt, an Australian, is cited in the brief as saying she "understood the sensitivities of federalism,"

but that it is important for

the United State to recognize that "state laws and practices [must come] into compliance with the Covenant." Whatever their effects on former board member Henderson, however, such ramblings didn't make their way into his preliminary injunction.

For reports on the legal battle over Prop. 209, see the "Prop. 209 Watch" feature of Reason Online (www.reasonmag.com).



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